IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1174 OF 2006

Abdul Rahim Ahmed Barambiya .. Petitioner.
Vs.
The State of Maharashtra .. Respondent.

Mr.Rishi Bhuta for the petitioner.
Mrs.M.M.Deshmukh A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 24TH JULY, 2006

P.C.:

. Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. This writ petition is directed against the order dated 16.1.2006 rejecting the application filed by the petitioner under section 451 for return of property, as mentioned in application dated 3.1.2006. It appears that the accused in C.R.No.796/05 was a maid servant working in the house of the complainant who allegedly had stolen the said property. Admittedly, the property was identified by the complainant. The investigating officer and the accused have given no objection for return of the said property to the complainant. However, the learned Judge rejected the said application solely on the

ground that the said property would be an important piece of evidence during trial. I perused the application, impugned order and other material placed on record. I do not find any just reason or ground to reject the application under section 451 filed by the petitioner. Even before this Court the prayer has not been opposed by the learned A.P.P. In the circumstances I pass the following order:

. The petitioner to file fresh application before the concerned Magistrate under section 451 seeking return of the property mentioned in the application dated 3rd January, 2006 within four weeks from today alongwith an undertaking stating therein that the complainant shall not dispose of the said property or change its nature in any form whatsoever and shall produce the same before the Court as and when required during the trial. On the petitioner filing such application with an undertaking, as aforestated, the property may be returned on furnishing P.R. Bond or any other security as the trial Court may deem it proper.

. The writ petition is, accordingly, disposed of.

(D.B.Bhosale, J.)